

Disciplinary Actions

Disciplinary Actions Reported For May

NASD Regulation, Inc. (NASD RegulationSM) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD[®]) rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of the end of April 2002.

Firm Expelled, Individual Sanctioned

CapBay Financial Services (CRD #32395, Roseville, California) and Stephen Charles Kircher (CRD #823868, Registered Principal, Loomis, California) submitted a Letter of Acceptance, Waiver, and Consent in which they were fined \$100,000, jointly and severally. The firm was expelled from NASD membership and Kircher was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that, in connection with the purchase and sale of securities, the firm, acting through Kircher, charged excessive markups based on its contemporaneous cost in principal transactions with its retail customers resulting in gross dollar proceeds to the firm. The NASD also found that the firm, acting through Kircher, effected transactions for customer accounts in the securities of a penny stock without providing customers with the disclosures required under section 15g of the Securities Exchange Act of 1934. The findings also stated that the firm and Kircher failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve

compliance with applicable securities laws, regulations, and NASD rules relating to penny stock transaction disclosure requirements and markup requirements in a dominated and controlled market. **(NASD Case #CMS020043)**

Firm Fined, Individual Sanctioned

Kunz & Cline Investment Management, Inc. (CRD #37196, Salt Lake City, Utah) and Kevin Dee Kunz (CED #1274540, Registered Representative, Fruit Heights, Utah) were censured and fined \$20,000, jointly and severally, and Kunz was fined \$5,000, individually. In addition, Kunz was suspended from association with any NASD member in any capacity for 30 days and in a principal capacity for one year, such suspensions to run concurrently. Moreover, Kunz must requalify in a representative capacity within 90 days of the conclusion of his suspension as a representative or cease to function in such capacity until he requalifies, and to requalify in a principal capacity before functioning in such capacity after the conclusion of his principal suspension. Furthermore, the firm was suspended from participation in any public or private offering of a security in the capacities of underwriter, primary placement, or sales agent until such time as it retains an independent consultant to review the adequacy and completeness of the firm's operational, compliance, and supervisory procedures pertaining to participation in such offerings in such capacities, and the firm demonstrates to the NASD that it has implemented any recommendations of the consultant. The Securities and Exchange Commission (SEC) imposed the sanction following

appeal of a National Adjudicatory Council (NAC) decision. The sanctions were based on findings that the firm, acting through Kunz, sold securities pursuant to private placement memoranda containing material misrepresentations and omissions, and sold securities that were neither registered with the SEC nor exempt from registration, and Kunz compensated an unregistered person in connection with the sale of securities.

The firm and Kunz have appealed this decision to the Court of Appeals, and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C3A960029)**

Firm And Individual Fined

Alpine Securities Corporation (CRD #14952, Salt Lake City, Utah) and Virgil Mark Peterson (CRD #1094640, Registered Principal, Alpine, Utah) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally, and Peterson was fined \$10,000, individually. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Peterson, failed to establish adequate written supervisory procedures reasonably designed to detect and prevent the sale of unregistered securities by associated persons. The NASD also found that Peterson failed to take the requisite supervisory steps to ensure that a former registered representative's sales of stock complied with Section 5 of the Securities Act of 1933, or that the registered representative was validly relying on an exemption from registration thereunder. **(NASD Case #C3A020017)**

Firms Fined

Adolph Komorsky Hoffman & Associates, Ltd. (CRD #30838, Tarrytown, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it paid compensation to individuals who should have been registered as foreign associates. The findings also stated that the firm reallocated to customer accounts shares of a stock that the firm had bought in error and failed to provide the customers with the best execution. The NASD also found that the firm failed to disclose to customers on confirmations that it entered into consulting agreements with the issuer of four securities and received compensation from the issuer. **(NASD Case #C11020016)**

Broadview International, LLC (CRD #27265, Fort Lee, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$7,000, jointly and severally, and fined \$5,000, individually. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, acting through a registered representative, it permitted individuals to perform duties as registered persons while their registration status with the NASD was inactive due to their failure to timely complete the regulatory element of the NASD's continuing education rule. **(NASD Case #C9B020026)**

Donald & Co. Securities Inc. (CRD #7776, Tinton Falls, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which it was censured and fined

\$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to properly include on Automated Confirmation Transaction ServiceSM (ACTSM) reports that the firm was acting in an agency capacity and failed to promptly execute customer limit orders. The findings stated that the firm reported proprietary and customer short sale transactions through ACT without a short sale modifier, and long sale transactions were reported as short. The NASD also found that the firm executed proprietary short sale transactions in Nasdaq National Market[®] (NNM[®]) securities, at or below the current inside bid, when the current inside bid was below the preceding inside bid in the security. In addition, the findings stated that the firm executed proprietary and customer short sale transactions and failed to maintain a written record of the affirmative determination made for such orders, and failed to prepare and maintain memoranda of securities transaction orders. Furthermore, the NASD determined that the firm failed to disclose to the customers certain required information in connection with transactions where the firm acted as principal. The NASD also found that the firm failed to establish, maintain, and enforce written procedures to supervise all aspects of the firm's activities, particularly its registration of representatives as Equity traders, locked and crossed markets procedures, and compliance with the NASD's Order Audit Trail SystemSM (OATSSM). **(NASD Case #C05020013)**

Morgan Stanley & Company, Inc. (CRD #8209, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent

in which the firm was censured and fined \$22,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to display customer limit orders in Nasdaq securities in its public quotation when each such order was at a price that would have improved the firm's bid or offer in each such security, or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each such security and the size of the order represented more than a de minimis change in relation to the size associated with the firm's bid or offer in each such security. The NASD also found that the firm executed short sale transactions and failed to report each of these transactions to ACT with a short sale modifier. **(NASD Case #CMS020053)**

Morgan Stanley DW, Inc. (CRD #7556, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$25,500, and required to revise its written supervisory procedures concerning the reporting of short interest and options positions. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to file reports with the NASD of positions of standardized option contracts and failed to report its short interest positions to the NASD for securities. The findings stated that the firm submitted short interest position reports that included inaccurate short interest dates. The NASD also determined that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning the reporting of short

interest and options positions to the NASD. **(NASD Case #CMS020050)**

Salomon Smith Barney, Inc. (CRD #7059, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$62,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a market maker in securities, without making reasonable efforts to avoid a locked or crossed market by executing transactions with all market makers whose quotations would be locked or crossed, it entered a bid or ask quotation in the Nasdaq Stock Market that caused a locked and crossed market condition to occur in each instance. The NASD also found that the firm caused a locked or crossed market condition prior to the market opening by entering a bid (ask) quotation that locked or crossed another market maker's quotations without immediately thereafter sending through SelectNet® to the market maker whose quote it locked or crossed a Trade-or-Move Message that was at the receiving market maker's quoted price and whose aggregate size was at least 5,000 shares. The findings stated that the firm was a party to a locked or crossed market condition prior to the market opening and received a trade-or-move message in each instance through SelectNet and failed to fill the incoming message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked/uncrossed the market. In addition, the NASD determined that the firm executed short sale transactions and failed to report these transactions to ACT with the correct short sale modifier, and executed long sale transac-

tions and incorrectly reported each of these transactions to ACT with a short sale modifier. **(NASD Case #CMS020040)**

Individuals Barred Or Suspended

Glen Thomas Adams, Jr. (CRD #2480113, Registered Representative, Collegeville, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Adams reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Adams consented to the described sanctions and to the entry of findings that he signed an insurance policy delivery receipt with the purported signature of a public customer and submitted such document to an insurance company without the authorization of the customer and without the policy being delivered to the customer. The findings also stated that Adams created a purported copy of a blank voided personal check of a public customer and submitted it to the insurance company for the purpose of establishing an automatic bank draft program to pay the premiums on the customer's insurance policy. Such document was false in that it was a copy of a check from Adams' own bank account that had been graphically altered to insert the customer's name and address.

Adams' suspension began April 15, 2002, and will conclude at the close of business October 14, 2002. **(NASD Case #C9A020012)**

Shika Emmanuel Ademu-John (CRD #4214226, Registered Representative, Franklin Park, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Ademu-John reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Ademu-John consented to the described sanctions and to the entry of finding that he willfully failed to timely amend his Uniform Application for Securities Industry Registration or Transfer (Form U-4) to disclose material facts.

Ademu-John's suspension began May 6, 2002, and will conclude at the close of business November 5, 2002. **(NASD Case #C9B020023)**

Paul O. Amosun (CRD #4390075, Associated Person, Lewisville, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Amosun reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Amosun consented to the described sanctions and to the entry of findings that he willfully failed to disclose a material fact on a Form U-4.

Amosun's suspension began April 15, 2002, and will conclude at the close of business October 14, 2002. **(NASD Case #C05020008)**

James Lee Bassa, Jr. (CRD #2913362, Registered Representative, Pompano Beach, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Bassa consented to the described sanction and to the entry of findings that he caused four checks to be issued against a client account without the client's authorization, forged the customer's endorsement on two of them, and deposited the checks into a bank account under his control, thereby converting \$43,300 from a client account to his own use and benefit. The findings also stated that Bassa provided the customer with altered account statements misrepresenting the activity in the account in an effort to conceal the conversion. **(NASD Case #C07020017)**

Joseph Michael Beninato, Sr. (CRD #2309007, Registered Representative, Edison, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for two months. The fine must be paid before Beninato reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Beninato consented to the described sanctions and to the entry of finding that he engaged in private securities transactions without prior written notice to, and approval from, his member firms in that he effected promissory note transactions.

Beninato's suspension began April 15, 2002, and will conclude at the close of business June 14, 2002. **(NASD Case #C9B020022)**

John Austin Bennett (CRD #2283625, Registered Representative, Seffner, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Bennett consented to the described sanction and to the entry of findings that he engaged in private securities transactions without providing prior written notice to, and receiving authorization from, his member firm. The findings also stated that Bennett utilized sales communications that violated various NASD advertising and communications standards. In addition, the NASD found that Bennett participated in an undisclosed outside business activity. **(NASD Case #C07020016)**

Stephen Lawrence Bialon (CRD #1212221, Registered Representative, Marlton, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for 30 business days, and ordered to disgorge \$5,400 in commissions in partial restitution to public customers. Without admitting or denying the allegations, Bialon consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm.

Bialon's suspension began May 6, 2002, and will conclude at the close of business June 17, 2002. **(NASD Case #C9A020014)**

John Vincent Bianchini (CRD #1581616, Registered Representative, Fayetteville, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and

suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Bianchini consented to the described sanctions and to the entry of findings that he purchased, or caused to be purchased, without the prior knowledge, consent, or authorization of a public customer, additional shares of stock in the customer's account.

Bianchini's suspension began April 15, 2002, and concluded at the close of business April 26, 2002. **(NASD Case #C11020014)**

William Bernard Cain (CRD #1393538, Registered Representative, Emporia, Virginia) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 90 days. The fine must be paid before Cain reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Cain consented to the described sanctions and to the entry of findings that he willfully failed to amend promptly his Form U-4 to disclose a material fact.

Cain's suspension began April 15, 2002, and will conclude on July 13, 2002. **(NASD Case #C07020020)**

Sheila Marie Cali (CRD #3082147, Associated Person, Columbia, South Carolina) was barred from association with any NASD member in any capacity. The sanction was based on findings that Cali willfully converted \$1,698.15 received from public customers to pay insurance premiums. **(NASD Case #C07010075)**

Vladimir Jaime Carvallo (CRD #2184457, Registered Principal, Melville, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Carvallo consented to the described sanctions and to the entry of findings that he failed to respond timely to NASD requests for information and documents regarding customer complaints.

Carvallo's suspension began April 22, 2002, and will conclude at the close of business May 21, 2002. **(NASD Case #C10020032)**

Nicholas Joseph Cianciaruso (CRD #2574972, Registered Representative, Staten Island, New York) submitted an Offer of Settlement in which he was fined \$5,600, which includes disgorgement of commissions received of \$600, and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Cianciaruso reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Cianciaruso consented to the described sanctions and to the entry of findings that he falsely represented, or allowed to be represented, on a member firm's brokerage records, that he was the registered representative for two of the firm's customers when, in fact, the registered representative for both accounts was another firm's registered representative. The NASD also found that, despite the fact that the other registered representative was the representative for the accounts, Cinnaciaruso signed his name to customer

agreement forms and falsely identified himself as the "Account Executive" for the accounts. The findings also stated that there were several securities transactions effected in the accounts and the firm paid commissions to Cianciaruso based on these transactions. The findings also included that Cinnaciaruso never had any communications with the customers in connection with any of the transactions but, despite this, all of the trade confirmations falsely identified him as a registered representative for the transactions; he was aware that the trade confirmations falsely identified him as the registered representative who effected the trade, but he took no steps to ensure that the firm's records accurately identified the correct registered representative for the accounts.

Cianciaruso's suspension began May 6, 2002, and will conclude at the close of business November 5, 2002. **(NASD Case #C9B010103)**

Stanley Henry Cohen (CRD #50189, Registered Representative, Jericho, New York) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Cohen consented to the described sanction and to the entry of findings that he failed to respond truthfully, accurately, non-deceptively, and/or completely during an NASD on-the-record interview. The findings also stated that Cohen prepared a statement incorporated into an MC-400 application submitted by his member firm that contained false, inaccurate, misleading, and incomplete statements regarding his job functions and/or role during his association with his member firm. In addition, the findings stated

that Cohen appeared before the NASD's Statutory Disqualification Committee and failed to provide truthful, accurate, non-deceptive, and/or complete information. Furthermore, the NASD found that Cohen, who was subject to statutory disqualification, continued to be associated with a member firm without the approval of the SEC and/or the NASD and in violation of an SEC order, and engaged in activities requiring registration as a registered representative even though he was not registered as such with the NASD. The NASD also determined that Cohen failed to update his Form U-4 to reflect the fact that he was the subject of an NASD investigation and/or that he might be named in an NASD disciplinary action. **(NASD Case #C10990158)**

Charles Howard Collins (CRD #51126, Registered Representative, Columbus, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Collins consented to the described sanction and to the entry of findings that he participated in outside business activity, for compensation, and failed to provide his member firm with prompt written notice of his activities. **(NASD Case #C8B020006)**

Jack Colombo (CRD #2098181, Registered Representative, Miami Lakes, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Colombo reassociates with any

NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Colombo consented to the described sanctions and to the entry of findings that he engaged in outside business activities and failed to provide prompt written notice of his employment with another firm to his member firm.

Colombo's suspension began April 1, 2002, and concluded at the close of business April 30, 2002. **(NASD Case #C07020014)**

Charles Farrell Cubellis (CRD #58254, Registered Representative, Citrus Heights, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 10 business days and suspended from recommending the purchase of any penny stock to public customers for one year. In light of the financial status of Cubellis, no monetary sanctions have been imposed. Without admitting or denying the allegations, Cubellis consented to the described sanctions and to the entry of findings that he effected transactions for public customer accounts in a common stock, and received an undisclosed sales credit or commission of 33 percent of the customer purchase price. The NASD determined that the prices charged to the customers were excessive and unfair. The findings also stated that Cubellis effected penny stock transactions for public customers without providing the customers with the required disclosures.

Cubellis' suspension in any capacity began April 15, 2002, and concluded at the close of business

April 26, 2002, and his suspension for recommending penny stocks began April 15, 2002, and will conclude at the close of business April 14, 2003. **(NASD Case #CMS020045)**

Dennis Michael Dinsmore (CRD #1956277, Registered Representative, Basking Ridge, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 business days. The fine must be paid before Dinsmore reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Dinsmore consented to the described sanctions and to the entry of finding that he misrepresented his educational background on several documents that he submitted to an NASD member.

Dinsmore's suspension began April 1, 2002, and will conclude at the close of business May 10, 2002. **(NASD Case #C9B020021)**

Steven Vincent Domenico (CRD #1643791, Registered Representative, Alpharetta, Georgia) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 business days. Without admitting or denying the allegations, Domenico consented to the described sanctions and to the entry of findings that he caused the telephone numbers of public customers in a member firm's computer system to be altered without authorization so that the numbers in the computer were incorrect.

Domenico's suspension began May 6, 2002, and will conclude at the close of business June 17, 2002. **(NASD Case #C07020019)**

James Henry Drowne (CRD #2132586, Registered Representative, North Falmouth, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent in which he was ordered to pay \$96,400, plus interest, in restitution to public customers, and barred from association with any NASD member in any capacity. The restitution must be paid before Drowne reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Drowne consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm. The NASD also found that, while registered with a member firm, Drowne engaged in outside business activities that he failed to disclose to his member firm. **(NASD Case #C11020013)**

Reagan Taylor Dugas (CRD #3077624, Registered Representative, Orange, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 60 days. The fine must be paid before Dugas reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Dugas consented to the described sanctions and to the entry of findings that he participated in a private securities transaction without providing prior notice, written or otherwise, to his member firm

describing the proposed transaction, his role therein, and whether he had received, or might receive, selling compensation in connection with the transaction.

Dugas' suspension began May 6, 2002, and will conclude July 4, 2002. **(NASD Case #C06010040)**

Alfred Vincent Ferraro, Jr. (CRD #1121059, Registered Representative, Wayne, New Jersey) submitted an Offer of Settlement in which he was fined \$9,670, which includes disgorgement of commissions received of \$2,172, and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Ferraro reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Ferraro consented to the described sanctions and to the entry of findings that he signed the name of his branch manager on customers' new account applications for investments in variable contracts and a mutual fund without the manager's knowledge or consent.

Ferraro's suspension began May 6, 2002, and will conclude at the close of business May 5, 2003. **(NASD Case #C9B010073)**

Bradley Albert Garmhausen (CRD #2333003, Registered Representative, Traverse City, Michigan) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$6,170, which includes the disgorgement of commissions received of \$1,170, and suspended from association with any NASD member in any capacity for one month. The fine must be paid before Garmhausen reassociates with any NASD member following

the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Garmhausen consented to the described sanctions and to the entry of findings that he engaged in private securities transactions, for compensation, and failed to give written notice to, and receive written approval from, his member firm prior to engaging in such activities.

Garmhausen's suspension began May 6, 2002, and will conclude at the close of business June 5, 2002. **(NASD Case #C8A020016)**

Annabelle Garvey (CRD #3271562, Registered Representative, Merced, California) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Garvey consented to the described sanction and to the entry of findings that she misappropriated \$5,000 from the bank account of a public customer and converted the funds to her own use and benefit. **(NASD Case #C01020002)**

John Roger Giddens (CRD #2863912, Registered Representative, Macon, Georgia) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$3,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Giddens reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Giddens consented to the described sanctions and to the entry of findings that he engaged in private

securities transactions without providing prior written notice to, or receiving authorization from, his member firm.

Giddens' suspension began April 1, 2002, and will conclude at the close of business September 30, 2002. **(NASD Case #C07020013)**

Adam David Gitstein (CRD #1884208, Registered Representative, New York, New York) and Ray Vahab (CRD #1041775, Registered Principal, New York, New York) were barred from association with any NASD member in any capacity. The sanctions were based on findings that Gitstein engaged in excessive and unsuitable trading in the account of a public customer and failed to respond truthfully during an NASD on-the-record interview. The findings also stated that Vahab failed to properly supervise Gitstein and failed to prevent, discover, or correct Gitstein's excessive trading. The NASD also found that Vahab failed to respond to NASD requests for information. Furthermore, the NASD found that Gitstein fabricated order tickets and Vahab provided the NASD with photocopies of the fabricated order tickets, representing that they were photocopies of the original order tickets completed by Gitstein at the time of the transactions. **(NASD Case #C10010105)**

Maurizio Virginio Grammatica (CRD #1845020, Registered Representative, Sarasota, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Grammatica reassociates with any NASD member following the suspension or before requesting relief from any statutory

disqualification. Without admitting or denying the allegations, Grammatica consented to the described sanctions and to the entry of findings that he falsified customer new account forms for the purpose of facilitating trading by an unregistered representative, thereby assisting the individual in committing registration violations.

Grammatica's suspension began April 1, 2002, and will conclude June 30, 2002. **(NASD Case #C07020007)**

Kevin Edward Greene (CRD #1804494, Registered Representative, Orlando, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Greene consented to the described sanctions and to the entry of findings that he exercised discretionary power in the account of a public customer without obtaining prior written authorization from the customer and without having the account accepted as discretionary by his member firm.

Greene's suspension began April 1, 2002, and concluded at the close of business April 12, 2002. **(NASD Case #C07020011)**

James Stanley Halligan (CRD #2284780, Registered Representative, Middlefield, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$6,000, required to disgorge commissions in the amount of \$3,000, and suspended from association with any NASD member in any capacity for six months. The fine and disgorgement amount must be paid before Halligan reassociates with any NASD member following the suspension or before request-

ing relief from any statutory disqualification. Without admitting or denying the allegations, Halligan consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm. The NASD also found that Halligan engaged in outside business activities without prior written notice to his member firm.

Halligan's suspension began April 15, 2002, and will conclude at the close of business October 14, 2002. **(NASD Case #C11020015)**

Michael James Harmeyer (CRD #1985323, Registered Representative, Boynton Beach, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Harmeyer consented to the described sanction and to the entry of findings that he received \$9,500 in cash from a public customer for investment purposes, commingled the customer's funds with his own in his personal bank and securities accounts, and executed options transactions in his securities account on behalf of a public customer, thereby making improper use of the customer's funds. **(NASD Case #C05020012)**

Roderick Alexander Harmon, II (CRD #1708990, Registered Representative, Scotch Plains, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was ordered to pay \$682, plus interest, in restitution to a public customer and barred from association with any NASD member in any capacity. The restitution must be paid before Harmon reassociates with any NASD member or before request-

ing relief from any statutory disqualification. Without admitting or denying the allegations, Harmon consented to the described sanctions and to the entry of findings that he accepted life insurance premium payments from a public customer and used those funds for his own use and benefit without the customer's knowledge, authorization, and consent. The NASD also found that Harmon engaged in outside business activities without prior written notice to, or approval from, his member firm. **(NASD Case #C9B020019)**

Keith Thomas Heinze (CRD #1342926, Registered Representative, Big Bend, Wisconsin) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 18 months. Heinze must provide satisfactory proof of payment that commissions in the amount of \$63,936 have been disgorged and returned to the issuer. Without admitting or denying the allegations, Heinze consented to the described sanctions and to the entry of findings that he failed and neglected to provide prior written notice to, and obtain prior written authorization from, his member firm to engage in private securities transactions, in which he offered and sold securities for compensation in the form of promissory notes.

Heinze's suspension began May 6, 2002, and will conclude at the close of business November 5, 2003. **(NASD Case #C8A010066)**

Wesley C. Hendrickson (CRD #2989470, Registered Representative, Fresno, California) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity and

required to disgorge \$191,625, plus interest, in commissions earned. Satisfactory proof of payment of disgorgement, plus interest, must be made before Hendrickson reassociates with any NASD member. Without admitting or denying the allegations, Hendrickson consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to, and receiving written approval from, his member firms. The findings also stated that Hendrickson, in connection with an NASD request for information, provided the NASD with a document that contained incomplete and inaccurate information. **(NASD Case #C01010008)**

Alan Michael Hovey (CRD #2758420, Registered Representative, Cathedral City, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hovey consented to the described sanction and to the entry of findings that he executed, or caused to be executed, an unauthorized mutual fund transaction in a public customer's account, and that, in order to effect the unauthorized transaction, he forged the customer's signature on a Universal Switch Letter without the customer's knowledge, authorization, or consent. **(NASD Case #C02020011)**

Stephen Alexander Hunter, II (CRD #2642890, Registered Representative, Roseville, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$25,000, suspended from association with any NASD member in any capacity for 12 business days, suspended

from recommending the purchase of any penny stock to public customers for one year, and required to take and pass the series 24 general securities principal exam within six months. Failure to take and pass the Series 24 exam shall result in Hunter's suspension from association with any NASD member in any capacity until he passes the exam. Without admitting or denying the allegations, Hunter consented to the described sanctions and to the entry of findings that he effected transactions for customer accounts and received an undisclosed sales credit or commission of 33 percent of the customer purchase price, therefore charging the customers prices that were excessive and unfair. The findings also stated that Hunter effected transactions for customer accounts in a penny stock security without providing customers with the disclosures required under Section 15g of the Exchange Act.

Hunter's suspension in any capacity began April 1, 2002, and concluded at the close of business April 16, 2002. His suspension for recommending penny stocks began April 1, 2002, and will conclude at the close of business March 31, 2003. **(NASD Case #CMS020044)**

Karl Francis Jesaitis, Jr. (CRD #2067945, Registered Representative, New York, New York) submitted an Offer of Settlement in which he was fined \$30,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before Jesaitis reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Jesaitis consented to the described

sanctions and to the entry of findings that he exercised discretionary authority in the account of a public customer without obtaining the customer's prior written authorization and his member firm's written acceptance of the account as discretionary. The findings also stated that Jesaitis settled a public customer's complaint without informing and obtaining authorization from his member firm. In addition, Jesaitis provided the NASD with false, deceptive, inaccurate, and/or incomplete testimony during an on-the-record interview.

Jesaitis' suspension began May 6, 2002, and will conclude at the close of business May 5, 2004. **(NASD Case #C10010137)**

Sean Kathenes (CRD #2278583, Registered Representative, Livingston, New Jersey) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Kathenes reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Kathenes consented to the described sanctions and to the entry of findings that he executed unauthorized transactions in a public customer's account without the customer's prior knowledge, authorization, or consent.

Kathenes' suspension began May 6, 2002, and will conclude at the close of business November 5, 2002. **(NASD Case #C9B010108)**

Barry Alan Kaufman (CRD #2774898, Registered Representative, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and

suspended from association with any NASD member in any capacity for 10 business days. The fine must be paid before Kaufman reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Kaufman consented to the described sanctions and to the entry of findings that he exercised discretionary authority in a public customer's account without obtaining the customer's prior written authorization and his member firm's acceptance of the account as discretionary.

Kaufman's suspension began April 15, 2002, and concluded at the close of business April 26, 2002. **(NASD Case #C10020036)**

Lloyd Knipe (CRD #1710703, Registered Representative, Franklin Square, New York) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 12 months. The fine must be paid before Knipe reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Knipe consented to the described sanctions and to the entry of findings that he failed to disclose material facts on his Form U-4.

Knipe's suspension began April 1, 2002, and will conclude at the close of business March 31, 2003. **(NASD Case #CLI010003)**

Stephen John Larkin (CRD #733109, Registered Representative, Trenton, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$25,000, suspended from association with any NASD member in any capacity

for two years, and ordered to disgorge \$52,000 in commissions in partial restitution to public customers. Without admitting or denying the allegations, Larkin consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm.

Larkin's suspension began May 6, 2002, and will conclude at the close of business May 5, 2004. **(NASD Case #C9A020015)**

Edward Joseph Larsen (CRD #4403877, Associated Person, Lyndhurst, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Larsen consented to the described sanction and to the entry of findings that he willfully misrepresented and failed to disclose material facts on his Form U-4. **(NASD Case #C10020025)**

Ji Hoon Lee (CRD #4408774, Registered Representative, Costa Mesa, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Lee reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Lee consented to the described sanctions and to the entry of findings that he failed to disclose a material fact on a Form U-4.

Lee's suspension began May 6, 2002, and will conclude at the close of business August 5, 2002. **(NASD Case #C02020015)**

Philip Millar Leech (CRD #2351020, Registered Representative, Spring Lake, Michigan) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$6,395, which includes the disgorgement of \$395 in commissions, and suspended from association with any NASD member in any capacity for one month. The fine must be paid before Leech reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Leech consented to the described sanctions and to the entry of findings that he participated, for compensation, in a private securities transaction by participating in the sale of a security in the form of a viatical issued by a member of the public without giving written notice of his intention to engage in such activity to his member firm, and receiving written approval from his member firm, prior to engaging in such activities. The NASD also found that Leech maintained a Web site for the purpose of advertising without obtaining prior approval for use of the Web site from a principal of his member firms, and failed to file the advertising with NASD's Advertising/Investment Companies Regulation Department within 10 days of the first use or publication of the Web site.

Leech's suspension began April 15, 2002, and will conclude at the close of business May 14, 2002. **(NASD Case #C8A020012)**

Jae Young Lim (CRD #1003677, Registered Representative, Fullerton, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allega-

tions, Lim consented to the described sanction and to the entry of findings that he participated in private securities transactions without providing prior written notice to his member firm. **(NASD Case #C02020012)**

Joseph Anthony Marchisello (CRD #2322480, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Marchisello consented to the described sanction and to the entry of findings that he failed to respond to an NASD request to appear for an on-the-record interview. **(NASD Case #C10020026)**

Peter Thomas Matus (CRD #2675757, Associated Person, Salt Lake City, Utah) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$12,500 and suspended from association with any NASD member in any capacity for 18 months. The fine must be paid before Matus reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Matus consented to the described sanctions and to the entry of findings that he maintained two accounts at another member firm and did not disclose, in writing, to his member firm the existence of the two accounts at the other firm, nor did he notify the other firm, in writing, that he was associated with his member firm.

Matus' suspension began May 6, 2002, and will conclude at the close of business November 5, 2003. **(NASD Case #C3A020019)**

Elizabeth Ann McCargar (CRD #2347346, Registered Representative, Folsom, California) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$2,500 and suspended from association with any NASD member in any capacity for 90 days. Without admitting or denying the allegations, McCargar consented to the described sanctions and to the entry of findings that she executed promissory notes for the purpose of recreating what she understood were previously executed promissory notes. The findings also stated that McCargar, in response to an NASD request for testimony, incorrectly testified that the promissory notes had been executed on or about the dates reflected on the notes.

McCargar's suspension began April 1, 2002, and will conclude June 29, 2002. **(NASD Case #CMS020036)**

Terry Edwin McCormic (CRD #1443203, Registered Representative, Lady Lake, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$47,982, which includes disgorgement of \$42,982 in commissions earned, and suspended from association with any NASD member in any capacity for two years. The fine must be paid before McCormic reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, McCormic consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without providing prior written notice to, or receiving authorization from, his member firm.

McCormic's suspension began April 1, 2002, and will conclude at

the close of business March 31, 2004. **(NASD Case #C07020015)**

William Keith McCrea (CRD #2234553, Registered Representative, Sun City West, Arizona) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, McCrea consented to the described sanction and to the entry of findings that he participated in private securities transactions without providing prior written notice of his activities to his member firm. **(NASD Case #C3A020014)**

Shannon Mae McDermott (CRD #4129251, Registered Representative, Granby, Missouri) was barred from association with any NASD member in any capacity. The sanction was based on findings that McDermott, without the knowledge or consent of a public customer, withdrew \$4,500 from the customer's bank account, deposited the cash funds into an account under her control, and used the funds to her own benefit or for some purpose other than the benefit of the public customer. The findings also stated that McDermott failed to respond to NASD requests for information. **(NASD Case #C04010037)**

Timothy Melvin Murphy (CRD #1827456, Registered Representative, Orange, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Murphy consented to the described sanction and to the entry of findings that he received \$141,398.15 from public customers

for investment purposes, failed to apply the funds as directed, and, instead, without the customers' knowledge, authorization, or consent, misused the funds until a later time at which time he returned the funds to the customers. **(NASD Case #C02020013)**

Susan Georgette Penn (CRD #1104422, Registered Principal, Huntington Station, New York) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and suspended from association with any NASD member in a principal capacity for five business days. The fine must be paid before Penn reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Penn consented to the described sanctions and to the entry of findings that a former member firm, acting through Penn, conducted a securities business while failing to maintain the minimum required net capital.

Penn's suspension began April 15, 2002, and concluded at the close of business April 19, 2002. **(NASD Case #C10020034)**

Dean Petkanas (CRD #2001896, Registered Principal, Old Westbury, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in a principal and supervisory capacity for 30 days. Without admitting or denying the allegations, Petkanas consented to the described sanctions and to the entry of findings that he failed to establish and maintain adequate written supervisory procedures to address the monitoring of his member firm's market presence

in warrants and that proper procedures were implemented.

Petkanas' suspension began April 15, 2002, and will conclude at the close of business May 15, 2002. **(NASD Case #CAF020011)**

Wayne Wendell Ratliff, III (CRD #1757408, Registered Principal, Morgantown, West Virginia) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Ratliff consented to the described sanction and to the entry of findings that he willfully failed to disclose material facts on a Form U-4 and failed to respond to NASD requests for information. **(NASD Case #C9A020011)**

Steven Mark Reed (CRD #2642807, Registered Representative, Suisun, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, Reed consented to the described sanctions and to the entry of findings that he recommended and engaged in purchase and sale transactions in the accounts of a public customer which involved mutual fund switching without having reasonable grounds for believing that these recommendations and resultant transactions were suitable for the customer based on her security holdings, financial situation, and needs.

Reed's suspension began May 6, 2002, and concluded at the close of business May 10, 2002. **(NASD Case #C06020002)**

Brian Scott Robison (CRD #2609403, Registered Representative, Aurora, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Robison consented to the described sanction and to the entry of findings that he obtained funds from his member firm to which he was not entitled by submitting expense reports requesting reimbursement for expenses he did not incur, and by receiving and retaining the reimbursements, which he has since voluntarily repaid. **(NASD Case #C3A020015)**

Deborah Ellen Romary (CRD #1112258, Registered Representative, Fort Wayne, Indiana) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$2,500, required to pay \$12,479, plus interest, in restitution to a public customer, which includes disgorgement of commissions of \$7,400.05, and suspended from association with any NASD member in any capacity for 10 business days. Romary must provide proof of payment of the restitution prior to reassociation with a member firm following the suspension or prior to any request for relief from statutory disqualification. Without admitting or denying the allegations, Romary consented to the described sanctions and to the entry of findings that she recommended to a public customer to transfer money from a variable annuity to a life variable annuity, resulting in a \$12,479 surrender charge to the customer. The NASD found that Romary made this recommendation without having a reasonable basis for the recommendation to exchange the variable annuity for the life variable annuity, when the products were

similar in some ways and identical in others, and without a material benefit to the customer.

Romary's suspension began April 15, 2002, and concluded at the close of business April 26, 2002. **(NASD Case #C8A020013)**

Philip Lawrence Salice (CRD #2928448, Registered Principal, Bayshore, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 15 business days. Without admitting or denying the allegations, Salice consented to the described sanctions and to the entry of findings that he guaranteed a public customer, in writing, against loss.

Salice's suspension began May 6, 2002, and will conclude at the close of business May 24, 2002. **(NASD Case #C10020033)**

Janet Lynne Schroder (CRD #1849962, Registered Representative, Florence, Kentucky) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$10,000, suspended from association with any NASD member in any capacity for six months, and required to pay \$15,500, plus interest, in restitution to public customers. Payment of the fine and satisfactory proof of payment of restitution is required before Schroder reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Schroder consented to the described sanctions and to the entry of findings that she participated in private securities transactions and engaged in business activity outside the scope of her relationship with her member firm without providing prior written notice to her firm.

Schroder's suspension began April 15, 2002, and will conclude at the close of business October 14, 2002. **(NASD Case #C05020011)**

Barbara Lee Schuldt (CRD #4008311, Registered Representative, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Schuldt consented to the described sanction and to the entry of findings that she obtained credit cards in the name of a public customer of his member firm's bank affiliate by completing credit card applications with the customer's personal information, which she verified through a branch bank. The NASD found that Schuldt used the credit cards on several occasions and signed the customer's name to credit charge slips, thereby incurring charges, without the knowledge or consent of the customer. **(NASD Case #C8A020017)**

Stephanie Ann Scott (CRD #3121358, Registered Representative, Oklahoma City, Oklahoma) was barred from association with any NASD member in any capacity. The sanction was based on findings that Scott issued cashier checks to herself totaling \$520, and that in order to fund these checks, she advanced \$520 on the line of credit of a public customer without the customer's knowledge or consent. Scott negotiated one of the cashier checks for \$260 and destroyed remaining checks prior to negotiation, thereby wrongfully converting \$260. Scott also failed to respond to NASD requests for information. **(NASD Case #C05010042)**

Damion S. Shoemaker (CRD #2897948, Registered Representative, Astoria, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Shoemaker filed materially inaccurate Forms U-4 and failed to respond to NASD requests for information. **(NASD Case #C10010108)**

Jerome Remy Shore (CRD #2666255, Registered Representative, Baton Rouge, Louisiana) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Shore reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations Shore consented to the described sanctions and to the entry of findings that he signed the names of public customers on a new account form without the knowledge or consent of the customers, and that he intentionally completed the form with an incorrect social security number and date of birth for one of the customers.

Shore's suspension began April 15, 2002, and will conclude at the close of business April 14, 2003. **(NASD Case #C05020010)**

Cara Marie Smith (CRD #2391959, Registered Representative, Mesa Arizona) submitted an Offer of Settlement in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Smith consented to the described sanction and to the entry of findings that she affixed the signatures of public customers on documents

that relate to the purchase of a variable annuity without the customers' knowledge or consent. The findings also stated that Smith failed to respond to NASD requests to appear for an on-the-record testimony. **(NASD Case #C8A010093)**

Thomas Steinbach (CRD #1296164, Registered Representative, Mountain Lakes, New Jersey) was barred from association with any NASD member in any capacity and ordered to pay \$20,000 in restitution to a public customer. The sanctions were based on findings that Steinbach, by use of the means or instrumentalities of interstate commerce, the mails, or any facility of any national securities exchange, employed a device, scheme, or artifice to defraud; made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or engaged in acts, practices, or a course of business which operated, or could operate, as a fraud or deceit upon persons by making misrepresentations and omissions in connection with an agreement to purchase options. In addition, Steinbach failed to respond to NASD requests for information. **(NASD Case #C9B010061)**

Belinda Enriquez Swiatlowski (CRD #2935813, Registered Representative, Dublin, California) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Swiatlowski consented to the described sanction and to the entry of findings that she failed to amend her Form U-4 to notify her

member firm and the NASD of a material fact. The findings also stated that Swiatlowski failed to respond to NASD requests for information and documentation. **(NASD Case #C01020004)**

Steven William Taylor (CRD #867673, Registered Representative, Longmont, Colorado) submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for one year. In light of the financial status of Taylor, no monetary sanction has been imposed. Without admitting or denying the allegations, Taylor consented to the described sanction and to the entry of findings that he failed to keep his Form U-4 current by filing, or causing to be filed, the required amendments.

Taylor's suspension began April 15, 2002, and will conclude at the close of business April 14, 2003. **(NASD Case #C3A010046)**

Lee Douglas Tusberg (CRD #1208731, Registered Representative, Spokane, Washington) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Tusberg consented to the described sanction and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm. The findings also stated that Tusberg failed to respond to NASD requests for information. **(NASD Case #C3B010018)**

Randall John Veselik (CRD #2258833, Registered Representative, Naperville, Illinois) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity and

required to pay \$1,395,000, plus interest, in restitution to a public customer. Satisfactory proof of payment of restitution must be made before Veselik reassociates with any NASD member. Without admitting or denying the allegations, Veselik consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to his member firm. The findings also stated that Veselik failed to respond to an NASD request to appear for an on-the-record interview. **(NASD Case #C05020002)**

Richard Zbigniew Zielony (CRD #721183, Registered Principal, Jacksonville, Oregon) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Zielony consented to the described sanction and to the entry of findings that he recommended transactions for the account of a public customer without having reasonable grounds for believing that such recommendations were suitable in light of the size and nature of the transactions, the margin interest costs, the holding periods, and the facts disclosed concerning the customer's other securities holdings, financial situation, investment objective, circumstances, and needs. The findings also stated that Zielony engaged in excessive trading in the account of a public customer in view of the customer's objectives, financial situation, and the nature of the customer's account. In addition, the NASD found that Zielony exercised discretionary power in a public customer's account without prior written authorization from the customer and acceptance in writing by his member firm of the

account as discretionary. **(NASD Case #C3B020006)**

Individuals Fined

Joseph Michael Angelone, Jr. (CRD #2313606, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$10,000. Without admitting or denying the allegations, Angelone consented to the described sanctions and to the entry of findings that he failed to amend his Form U-4 to disclose material facts. **(NASD Case #C9B020025)**

Frank James Gillen (CRD #2045276, Registered Representative, Salt Lake City, Utah) submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$25,000. Without admitting or denying the allegations, Gillen consented to the described sanctions and to the entry of findings that he sold shares of common stock that represented the founder shares he received when the stock was formed. The NASD found that Gillen relied upon Rule 144(k) as an exemption from registration under Section 5 of the Securities Act of 1933. However, since he was a control person at the time he sold the shares, Rule 144(k) was not available to him; therefore, he sold his shares in violation of Section 5 of the Securities Act of 1933. **(NASD Case #C3A020016)**

Decision Issued

The following decision has been issued by the DBCC or the Office of Hearing Officers and has been appealed to or called for review by the NAC as of April 5, 2002. The findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed

by the NAC. Initial decisions whose times for appeal have not yet expired will be reported in the next *Notices to Members*.

Gaylon Wayne LaBoa (CRD #3134751, Registered Representative, Atlanta, Georgia) was barred from association with any NASD member in any capacity. The sanction was based on findings that LaBoa converted checks totaling \$2,700 received from a public customer to begin an investment account and failed to deposit any money into the account. The findings also stated that LaBoa failed to respond to NASD requests for an on-the-record interview.

LaBoa has appealed this decision to the NAC, and the sanction is not in effect pending consideration of the appeal. **(NASD Case #C07010007)**

Complaints Filed

The following complaints were issued by the NASD. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by the NASD in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

Robert Andrew DiCarlo, Jr. (CRD #2837475, Registered Representative, Boca Raton, Florida) was named as a respondent in an NASD complaint alleging that he effected unauthorized transactions in the accounts of public customers and failed to respond to NASD requests for

information. **(NASD Case #C07020012)**

Lloyd Wade Securities, Inc. (CRD #39653, Dallas, Texas), David Lloyd Rutkoske (CRD #1496393, Registered Principal, Allen, Texas), and Michael Arthur Niebuhr (CRD #724449, Registered Principal, San Diego, California) were named as respondents in an NASD complaint alleging that the respondents made use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell a security for which there was no registration statement in effect through the use of any prospectus or otherwise. The complaint also alleges that while the firm, acting through Rutkoske and Niebuhr, engaged in a distribution of securities, it was at the same time engaging in selling efforts with respect to the stock by purchasing shares on a principal basis and then selling the shares to public customers in solicited principal transactions in violation of Regulation M. In addition, the complaint alleges that the firm, acting through Rutkoske and Niebuhr, effected transactions in securities at prices that were not fair and reasonable, and charged retail customers undisclosed markups in excess of five percent of the firm's contemporaneous cost.

Furthermore, the complaint alleges that the respondents, by the use of the means or instrumentalities of interstate commerce, the mails, or of any facility of any national securities exchange, employed a device, scheme, or artifice to defraud; made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or engaged in acts,

practices, or a course of business that operated as a fraud or deceit upon person in connection with transactions it effected in securities as principal. The complaint alleges that the firm charged public customers fraudulently excessive markups that were over 10 percent and \$100, totaling approximately \$285,900. In addition, the complaint alleges that the firm, as a market maker in an over-the-counter bulletin board (OTCBB) security, dominated and controlled the market for the security, and should have computed customer markups based upon its contemporaneous cost from other broker/dealers but failed to do so. Furthermore, the complaint alleges that Rutkoske and Niebuhr made the decision to make a market in the security and determined the markups that were excessive and fraudulent. Moreover, the complaint alleges that the firm and Rutkoske failed to respond to NASD requests for information. **(NASD Case #CAF020012)**

Nelson Daniel Polite, Jr. (CRD #2698001, Registered Principal, Orlando, Florida) was named as a respondent in an NASD complaint alleging that he entered into a written agreement with a public customer to trade his account and share profits earned in that account without prior written authorization from his member firm. The complaint also alleges that Polite failed to respond to NASD requests for information and documents. **(NASD Case #C07020021)**

Joseph Anthony Sanchez (CRD #2393619, Registered Representative, Tampa, Florida) was named as a respondent in an NASD complaint alleging that he sold and purchased, or caused to be sold and purchased, shares of stock for the account of a public

customer without the prior knowledge, authorization, or consent of the customer. The complaint also alleges that Sanchez failed to respond to NASD requests for documents and information. **(NASD Case #C9B020018)**

Henry Shin a/k/a Yoo Ho (CRD #3210557, Registered Representative, Levittown, New York) was named as a respondent in an NASD complaint alleging that he engaged in transactions in the account of a public customer without the customer's prior knowledge, authorization, or consent. The complaint also alleges that Shin engaged in a pattern of deceptive conduct intended to deter or delay a public customer from taking any action including complaining to his member firm about unauthorized transactions. In addition, the complaint alleges that Shin engaged in activities involving options transactions while he was not qualified, and registered in the category or categories of registration related to options securities. Furthermore, the complaint alleges that Shin failed to respond to NASD requests for information. **(NASD Case #C10020027)**

Firm Suspended For Failure To Supply Financial Information

The following firm was suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The action was based on the provisions of NASD Rule 8210 and Article VII, Section 2 of the NASD By-Laws. The date the suspension commenced is listed after the entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

Pars Securities, Inc.,
Ridgewood, New Jersey
(March 6, 2002)

Individuals Barred Pursuant To NASD Rule 9544 For Failure To Provide Information Requested Under NASD Rule 8210. (The date the bar became effective is listed after the entry.)

Alfonseca, Jr., Pedro J.,
Jamaica Plain, New York
(March 6, 2002)

Armenta, Joseph E.,
Phoenix, Arizona
(March 20, 2002)

Benelli, Rosemary,
Sun City Center, Florida
(April 3, 2002)

Brouillette, Jr., Ronald D.,
LaJolla, California
(March 25, 2002)

Chaplin, Don F.,
San Diego, California
(March 28, 2002)

Freedman, Richard O.,
New York, New York
(March 6, 2002)

Grau, Steven A.,
Lighthouse Point, Florida
(April 2, 2002)

Hathaway, II, William,
Virginia Beach, Virginia
(March 20, 2002)

Hemingway, Deidre K.,
Minneapolis, Minnesota
(March 28, 2002)

Humphreys, Kyle Wade,
Mesa, Arizona
(March 21, 2002)

Lowe, Anthony,
Atlanta, Georgia
(March 19, 2002)

Individuals Suspended Pursuant To NASD Rule 9541(b) For Failure To Provide Information Requested Under NASD Rule 8210. (The date the suspension began is listed after the entry.)

Ambrosio, Jeffrey M.,
Cleveland, Ohio
(March 11, 2002)

Hengst, Allen L.
(a/k/a Scott J. McKay Wolas),
Orlando, Florida
(March 4, 2002)

Hsu, John S.,
Alhambra, California
(March 27, 2002)

Weinstock, Jason H.,
Van Nuys, California
(April 1, 2002)

Individuals Suspended Pursuant To NASD Rule Series 9510 For Failure To Comply With An Arbitration Award Or A Settlement Agreement

The date the registration was suspended is included after the entry. If the individual has complied, the listing also includes the date the suspension was lifted.

Lau, Chunpong,
Los Angeles, California
(March 8, 2002 – March 12, 2002)

Tye, Walter Alan,
Long Beach, New York
(March 15, 2002 – April 17, 2002)

NASD Regulation Censures And Fines Interactive Brokers For Market Systems Violations

NASD Regulation announced that it censured and fined Interactive Brokers, L.L.C., \$230,000 for

multiple violations, including order routing, Order Audit Trail System (OATS) reporting, record keeping, and supervision violations. During a three-year period, Interactive Brokers violated NASD rules by mis-programming its order routing system so that customer orders that were routed through Nasdaq's SelectNet system to electronic communication networks (ECNs) were treated as "non-negotiable," which means the essential terms of the order, including the size, could not be changed. NASD rules prohibit non-negotiable orders from being sent to ECNs and permit ECNs to reject them. In most cases, ECNs exercised their right to reject them, due to difficulties in programming their systems to accept this type of order.

Interactive Brokers also failed to submit OATS reports in the manner required by NASD OATS rules. Interactive Brokers' record keeping violations occurred as a result of its system programming, which retained certain required details concerning its routing of orders through SelectNet for no more than one week. NASD rules require that this data be retained for three years. Interactive Brokers' OATS and record keeping violations spanned a 20-month period from August 1999 through April 2001.

Interactive Brokers also was ordered to revise its supervisory procedures to ensure that future computer programming changes will result in the firm's automated routing and execution system, OATS reports, and maintenance of required books and records being in compliance with NASD and SEC rules.

NASD Regulation Settles Stock Manipulation Case With M. H. Meyerson & Co., Inc. And Four Execs

NASD Regulation Files Complaint Against Two Employees of a Second Firm in Related Activity

NASD Regulation found that M.H. Meyerson, & Co., Inc. and its Head Trader, Salvatore Dacunto, manipulated the stock of Concap, Inc., (CNCG), a thinly traded OTCBB security, in a scheme to artificially inflate its price in return for 100,000 restricted shares under a veiled investment banking arrangement. The firm and three of its officers—CEO Martin H. Meyerson, former President and COO Michael Silvestri, and Compliance Officer Joseph G. Messina—were found to have failed to adequately supervise Dacunto's trading activities, and failed to establish and maintain adequate supervisory procedures. All parties consented to NASD Regulation's findings without admitting or denying the allegations and were fined a total of \$240,000.

NASD Regulation found that as part of the manipulative scheme, Dacunto acting on behalf of M. H. Meyerson & Co. of Jersey City, NJ, up-ticked Meyerson's bid for the security on a daily basis over a two-week period in 1998, causing the inside bid for CNCG to increase 400 percent. Dacunto fraudulently up-ticked the bid despite the lack of any favorable news reports, very little retail interest in the security, and no competing bids. In fact, Concap had no reported operating revenues for the previous three years and had recently received a going concern opinion from its auditors.

In settling with NASD Regulation:

- The firm was censured, fined \$75,000 and consented to the hiring of an independent consultant to review and revise the firm's "Chinese Wall" procedures between the firm's trading and investment banking departments.
- Dacunto was fined \$75,000, suspended from associating with any NASD member firm for three months and suspended for an additional two months from acting in a supervisory or trading capacity. He is also required to re-qualify as a trader through examination, before again serving in that capacity.
- The firm, along with Martin H. Meyerson, Silvestri and Messina were sanctioned for failing to adequately supervise Dacunto's trading activities and for failing to have adequate supervisory procedures in place to detect his conduct.
 - ❖ Specifically, Mr. Meyerson failed to make an effective delegation of supervision of Dacunto's trading activities since he was aware that the firm had no system to monitor traders' quotations, and that Messina had not established adequate procedures to review Dacunto's market-making activities. Mr. Meyerson was fined \$50,000, suspended from associating with an NASD member firm for 20 business days and suspended from serving as a supervisor for an additional 10 business days.
 - ❖ Silvestri also was aware that Messina had failed to establish adequate procedures to monitor the trading department's market-making activities. He was fined \$25,000 and suspended from associating with an NASD member firm for 20 business days.
 - ❖ Messina, for failing to adequately supervise Dacunto, and failing to develop an adequate system to monitor the trading room's activities, was censured, fined \$15,000 and required to re-qualify by examination as a General Securities Principal before again serving in that capacity.

In a related matter, NASD Regulation filed a complaint against Michael Marcus, previously a trader with Morgan Grant Capital Corp., a former NASD member firm, and Louis Montaino, a former broker with Morgan Grant, for engaging in related fraudulent trading in CNCG while at Morgan Grant. As part of the scheme, Morgan Grant obtained 1 million shares of Concap for little or no consideration. This represented more than 40 percent of the float. The two are alleged to have "pumped and dumped" the CNCG stock on their unsuspecting customers allowing the firm to garner \$1.9 million in illicit profits. These charges are pending.

The complaint filed against Marcus and Montaino alleges that between July 30, 1998 and August 12, 1998, Marcus directed purchase limit orders for CNCG to Meyerson almost on a daily basis, at increasingly higher prices. At that time, Meyerson was the only active

market maker in the security. According to the complaint, the orders provided a pretense for Dacunto to increase Meyerson's bid for CNCG and to make it appear as if there were interest and activity in the security. Marcus placed those orders for his firm's proprietary account despite the fact that Morgan Grant already held a substantial long position of CNCG and that Marcus had no retail orders at that time.